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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,465

12/05/2003

Luis E. Luciani JR.

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05/15/2009

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INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

DINH, KHANH Q

ART UNIT

PAPER NUMBER

2451

NOTIFICATION DATE

DELIVERY MODE

05/15/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/728,465	<b>Applicant(s)</b> LUCIANI ET AL.	
	<b>Examiner</b> Khanh Q. Dinh	<b>Art Unit</b> 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

1. this is in response to the amendment and Remarks filed 1/29/2009. Claims 1-6 and 14-20 are presented for examination.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a U.S. patent application and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Uogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
3. A timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. 1.130(b).
4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
5. Claims 1-3 and 14-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-17 of application 10/729,676 filed 12/5/2003.

6. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patent.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simionescu et al., US Pub. No. 20030084337 in view of Antonin et al, US Pub. No. 2002/0138431.

As to claim 1, Simionescu discloses a method comprising:

switching between a default remote console session and a non-default remote console session and the logging into the remote computer initiates a console session being default remote control session and then switching the console session (using the master device to change the state of operation from normal mode to upgrade mode, see abstract, fig. 4, [0033] to [0036] and [0040] to [0043]).

Simionescu does not specifically disclose logging into a remote computer by way of a management processor to initiate a remote console session, the management processor that resides within the remote computer, the management processor different than a central processing unit of the remote computer. However, Zhu discloses logging into a remote computer

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by way of a management processor to initiate a remote console session, the management processor that resides within the remote computer, the management processor (terminal server 115 fig.1) different than a central processing unit of the remote computer (using the terminal server to provide centralized resources to a number of financial terminals, see fig.1, 0037] to [0040]). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Zhu's teaching into the computer of Simionescu to process data information because it would have enabled users to access/communicate to an outside server using Internet protocols.

As to claims 2-4, Simionescu discloses that the default remote console session is a hardware-based remote console session and the non-default remote console session is a software-based remote console session, the default remote console session is a software-based remote console session and the non-default remote console session is a hardware-based remote console session and wherein the default remote console session is adjustable between a hardware-based remote console session and a software-based remote console session (see figs.4, [0040] to [0042] and 0047] to [0049]).

As to claims 5-6, Simionescu discloses determining availability of the default remote console session; disabling the non-default remote console session and enabling the default remote console session, logging into the management processor comprising an application specific integrated circuit, a microcontroller and a memory for communication between the remote computer and the management processor (see [0047] to [0050] and [0064] to [0066]).

9. Claims 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simionescu et al., US Pub. No.20030084337 in view of Zhu et al, US Pub. No.2003/0084169.

As to claim 14, Simionescu discloses a computer system comprising:

means for providing switches to a default remote console session from a non-default remote console session (using the master device to change the state of operation from normal mode to upgrade mode, see abstract, fig.4, [0033] to [0036].

Simionescu does not specifically disclose means for providing a remote console session to a computer system. However, Zhu discloses means for providing a remote console session to a computer system (allowing user access to a remote computer using remote access software/desired data, see abstract, fig.1, [0017] to [0020] and [0037] to [0040]). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Zhu's teaching into the computer of Simionescu to process data information because it would have enabled user to access the target computer during a data conference and thus shared applications located on the target computer with other participants of the data conference (see [0008]).

As to claims 15-17, Simionescu discloses that the default remote console session is a hardware-based remote console session and the non-default remote console session is a software-based remote console session, the default remote console session is a software-based remote console session and the non-default remote console session is a hardware-based remote console session

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and wherein the default remote console session is adjustable between a hardware-based remote console session and a software-based remote console session (see figs.4, [0040] to [0042] and [0047] to [0049]).

As to claims 18-19, Simionescu discloses determining availability of the default remote console session; disabling the non-default remote console session and enabling the default remote console session, logging into the management processor comprising an application specific integrated circuit, a microcontroller and a memory for communication between the remote computer and the management processor (see [0047] to [0050] and [0064] to [0066]).

As to claim 20, Simionescu discloses ascertains availability of the default remote console session, ensures the coupling of the computer system and the means for providing, disables the non-default remote console session and enables the default remote console session (see fig.5, [0033] to [0036] and [0063] to [0066]).

### ***Response to Arguments***

10. Applicant's arguments filed on 1/29/2009 have been fully considered but they are not persuasive.

- Applicant asserts that the combination of references does not disclose claim

14.

Examiner respectfully disagrees. Examiner respectfully point out the combination of Simionescu and Zhu discloses the Applicant's claimed invention. For example, Simionescu

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discloses a computer system comprising: means for providing switches to a default remote console session (normal mode) from a non-default remote console session (upgrade mode) (using the master device to change the state of operation of the devices from normal mode to upgrade mode and automatically reset the entire device network device in case of a failure, see abstract, fig.4, [0033] to [0038]. Simionescu does not specifically disclose means for providing a remote console session to a computer system. However, Zhu discloses means for providing a remote console session to a computer system (allowing user access to a remote computer using remote access software/desired data, see abstract, fig.1, [0017] to [0020] and [0037] to [0040]). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Zhu's teaching into the computer of Simionescu to process data information because it would have enabled user to access the target computer during a data conference and thus shared applications located on the target computer with other participants of the data conference (see [0008]) as rejected above.

Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1 and 14. Claims 2-6 and 15-20 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the previous office action [see paper mailed on 11/3/2008]. Applicant's arguments are fully considered but they are found not persuasive.

### ***Conclusion***

11. Claims 1-6 and 14-20 are rejected.



**12. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FOLLANSBEE JOHN, can be reached on (571) 272-3964. The fax phone number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

Commissioner for patents

P O Box 1450

Alexandria, VA 22313-1450

/Khanh Dinh/

Primary Examiner, Art Unit 2151